

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO

ONE BEACON INSURANCE COMPANY,) CASE NO. 3:07-CV-03540-BZ
a corporation,)
Plaintiff,) JOINT CASE MANAGEMENT
vs.) STATEMENT
HAAS INDUSTRIES, INC., a) Date: 10/29/07
corporation,) Time: 4:00 P.M.
Defendants.) Judge: Hon. Bernard Zimmerman
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The parties, by their undersigned attorneys, respectfully submit their Joint Case Management Statement in conformity with the Northern District Judges' Standing Order.

1. Jurisdiction and Service: Defendant plans to bring in Direct Air, the custodial carrier, prior to October 29, 2007.

2. Objective Statement of Facts Provided by Plaintiff: Plaintiff One Beacon is the subrogated insurer of PPI, a retailer of computer wafers. PPI purchased an order of wafers from wholesaler Omneon Video Graphics for resale to City University of New York. The sale

1 terms provided that the product was FOB Omneon's dock, but that
2 Omneon would make the transportation arrangements, pay the freight
3 charges and then invoice PPI for the transportation later.

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5 PPI's contract called for Omneon to make shipping arrangements
6 through a company called Unishippers. However, Unishippers proved
7 to be unreliable, and Omneon retained Haas Industries instead.
8 Haas is a licensed freight forwarder, which took possession of the
9 goods and issued a bill of lading in its own name. Haas then
10 turned the load over to Direct Air for transportation to New York.
11 The load delivered short with a resulting loss alleged to be
12 \$105,000.

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14 According to personnel at Omneon, Haas insisted that a claim
15 for damages be filed by Omneon, rather than by PPI. Omneon did so.
16 Haas contends that its liability is limited by the terms and
17 conditions of the bill of lading contract. Haas forwarded a check
18 for \$88.00 to Omneon, which Omneon cashed.

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20 3. Legal Issues: Haas contends that the \$88.00 payment to Omneon
21 represents an accord and satisfaction. PPI disputes that there was
22 an accord and satisfaction at all, and in any event, contends that
23 Omneon was neither its agent nor a proper claimant.

24

25 Haas further contends that its liability, if any, is limited
26 to 50 cents per pound as provided in the bill of lading contract.
27 One Beacon contends that as a matter of law, the limitation fails
28 to satisfy Carmack Amendment, 49 USC 14706, or *Hughes Aircraft v.*

1 *North American Air Lines*, 970 F2d 609 (9th Cir. 1992). Counsel are
2 familiar with these issues and familiar with each other, and have
3 exchanged extensive correspondence based upon pertinent case law
4 arising since the enactment of the *Interstate Commerce Commission*
5 *Termination Act of 1995*. It is agreed that for all intents and
6 purposes this case will be decided on summary judgment.

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8 4. Motions: Cross-Motions for Summary Judgment are anticipated
9 to be the only motions filed.

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11 5. Amendment of Pleadings: No amendment is anticipated, however,
12 the parties propose a 60-day window for possible ammendment.

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14 6. Evidence Preservation: Each side believes that all relevant
15 and admissible evidence has been preserved.

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17 7. Disclosures: Initial disclosures have been exchanged.

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19 8. Discovery: Since the case is likely to turn on documents,
20 minimal discovery is anticipated.

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22 9. Class Actions: Not a class action.

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24 10. Related Cases: No related cases.

25

26 11. Relief: No counterclaim is asserted.

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28 12. Settlement and ADR: Extensive discussions had taken place

1 prior to the filing of suit. A settlement conference prior to a
2 hearing on cross-motions for summary judgment probably would not be
3 fruitful.

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5 13. Consent to Magistrate Judge for All Purposes: The parties
6 consent.

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8 14. Other References: No.

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10 15. Narrowing of Issues: The issues appear to have been narrowed.

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12 16. Expedited Schedule: No - Direct Air is to be brought in.

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14 17. Scheduling: Proposed dates:

15 Trial - June 23, 2008

16 Pretrial Conference - June 4, 2008

17 Discovery Cutoff for all Purposes - May 9, 2008

18 Exchange of Expert Reports - April 1, 2008

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20 18. Trial: Trial by the Court, if necessary.

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22 19. Disclosure of Non-Party Interested Entities or Persons:

23 Certification to be filed prior to October 29, 2007.

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25 20. Counsel for defendant has requested permission to make a
26 telephonic appearance at the conference.

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1 Dated: October 22, 2007

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LAW OFFICES OF JAMES ATTRIDGE
JAMES ATTRIDGE

By: /S/ James Attridge
JAMES ATTRIDGE
Attorney for Plaintiff
ONE BEACON INSURANCE COMPANY

Dated: October 22, 2007

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